

REMARKS/ARGUMENTS

Claims 1-9 and 11-16 are pending in the present application, of which claims 1 and 5 are independent. Claims 4, 8, and 16 are hereby amended.

CLAIM OBJECTIONS

Page 2 of the Final Office Action, mailed on December 1, 2008, objects to claims 4 and 8. In response, Applicant filed an Amendment After Final to incorporate the Examiner's suggestions into claims 4 and 8. The Advisory Action, mailed on March 2, 2009, indicates that this Amendment After Final has overcome the objections to claims 4 and 8.

REJECTIONS UNDER 35 U.S.C. § 103

Pages 3-6 of the Office Action, mailed on December 1, 2008, reject claims 1, 3-1, 5, 6, 8-6, 9-5, 9-6, 11, 13, and 14 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Published U.S. Patent Application No. 2003/0226059 to Braun (hereinafter "Braun"). Pages 6-9 of the same Office Action reject claims 2, 3-2, 7, 8-7, and 9-7 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Braun in view of the Wikipedia article on Uninterruptible Power Supply (hereinafter "UPS"). Pages 9-10 of the same Office Action reject claims 4-1 and 16 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Braun in view of U.S. Patent No. 5,421,006 to Jablon (hereinafter "Jablon"). Pages 10-11 of the same Office Action

reject claim 4-2 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Braun in view of UPS and Jablon. Pages 11-12 of the same Office Action reject claims 12 and 15 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Braun in view of U.S. Patent No. 6,314,532 to Daudelin (hereinafter “Daudelin”). Applicant respectfully traverses all of these rejections for the reasons listed below.

According to M.P.E.P. § 715, when any claim of a patent application is rejected, the inventor of the subject matter of the rejected claim may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based. In this case, the Examiner has rejected all of the claims under 35 U.S.C. § 103(a) using Braun. The Braun reference has a filing date of May 30, 2002 and cannot claim an earlier priority date.

Applicant respectfully submits herewith Declarations under 37 C.F.R. § 1.131 (“Declarations”) from Martin Wagner, first named inventor in the Application, and Matthias Muth, the second named inventor. The Declarations aver that the subject matter recited in claims 1-9 and 11-16 was invented by the named inventors prior to May 30, 2002, the effective U.S. filing date of Braun. As described in section 6 of the Declarations, the invention was conceived prior to May 30, 2002, coupled with “diligence leading up to a subsequent reduction to practice” (emphasis added). Therefore, Applicant respectfully submits that Braun is not available as prior art.

In the Advisory Action mailed on March 2, 2009, the Examiner alleges, in part, that the “affidavit successfully establishes prior conception, however, there is no showing of due diligence from the date of the submitted design document to either a subsequent reduction to practice or the date of the filing of the application, as is required by the M.P.E.P.” In response, Applicant respectfully submits that the revised declarations include a statement related to the period between May 30, 2002, the filing date of the Braun reference, and June 10, 2002, the filing date of DE 102-25-472.9 in Germany, a WTO member country.

Applicant respectfully submits that this filing qualifies as a constructive reduction to practice under 37 CFR § 1.131. Accordingly, as discussed during a telephonic interview with the Examiner of Record, due diligence only applies to an eleven day period between May 30 and June 10 in 2002. Applicant respectfully submits that the current declarations include a statement that diligence during this period included work on preparing DE 102-25-472.9 for filing in Germany.

As further discussed during the telephonic interview, Applicant also submits a Supplemental Application Data Sheet (ADS). As set forth in MPEP § 601.05, “A supplemental ADS that is being used to correct data shown in an oath or declaration, such as foreign priority or residence information for an inventor, would show the original incorrect information with strike-through or brackets, and the new information with underlining, as if an ADS had originally been used to submit

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the information.” In this case, Applicant respectfully submits that the filing date of DE 102-25-472.9 was June 10 in 2002, not 2003 as indicated on the original ADS.

For at least the reasons presented above, Applicant respectfully requests that the rejections under 35 U.S.C. § 103(a) be withdrawn.

CONCLUSION

In view of the remarks above, Applicant believes that each of the rejections and objections has been overcome and the application is in condition for allowance. In the event that the fees submitted prove to be insufficient in connection with the filing of this paper, please charge our Deposit Account Number 50-0578 and please credit any excess fees to such Deposit Account. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the attorney overseeing the application file, Aaron Waxler of NXP Corporation, at (408) 474-5256.

Respectfully submitted,
KRAMER & AMADO, P.C.

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